

MAINE STATE LEGISLATURE

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No. 875

H.P. 665

House of Representatives, February 27, 2007

An Act To Continue the Protection of Marine Waters and Organisms from the Risks Posed by the Applications of Pesticides

(EMERGENCY)

Reported by Representative PIEH of Bremen for the Joint Standing Committee on Agriculture, Conservation and Forestry pursuant to Public Law 2005, chapter 553, section 4.

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed under Joint Rule 218.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** the spraying of pesticides to curtail browntail moth populations begins in
4 the spring; and

5 **Whereas,** action is needed to reduce the risk to marine organisms from pesticides
6 used to curtail browntail moths; and

7 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
8 the meaning of the Constitution of Maine and require the following legislation as
9 immediately necessary for the preservation of the public peace, health and safety; now,
10 therefore,

11 **Be it enacted by the People of the State of Maine as follows:**

12 **Sec. 1. 22 MRSA §1444, sub-§4,** as corrected by RR 2005, c. 2, §15, is amended
13 to read:

14 **4. Limits on pesticide applications.** Pesticide applications near coastal waters in
15 Cumberland, Lincoln, Sagadahoc and York counties to control browntail moths must be
16 in compliance with section 1445.

17 This subsection is repealed March 31, ~~2007~~ 2008.

18 **Sec. 2. 22 MRSA §1445, first paragraph,** as enacted by PL 2005, c. 553, §2, is
19 amended to read:

20 This section applies to the application of pesticides to control browntail moths in
21 coastal areas. For the purposes of this section, "coastal areas" means land in Cumberland,
22 Lincoln, Sagadahoc and York counties abutting coastal waters as defined in Title 12,
23 section 6001, subsection 6, except that coastal areas extend inland up rivers and streams
24 only as far as the first bridge.

25 **Sec. 3. 22 MRSA §1445, sub-§2, ¶B,** as enacted by PL 2005, c. 553, §2, is
26 amended to read:

27 B. Applications may be performed only with a hydraulic hand-held spray gun or
28 air-assisted sprayers.

29 **Sec. 4. 22 MRSA §1445, sub-§2, ¶E** is enacted to read:

30 E. Applications may be performed only when the wind is equal to or greater than 2
31 miles per hour and blowing away from marine waters.

32 **Sec. 5. 22 MRSA §1445, sub-§4,** as enacted by PL 2005, c. 553, §2, is amended
33 to read:

34 **4. Exemption.** The prohibitions and restrictions in this section do not apply to
35 biological pesticides ~~or~~, to the injection of pesticides directly into the soil or into shade

1 and ornamental trees or to the application of pesticides by licensed commercial pesticide
2 applicators using nonpowered equipment.

3 **Sec. 6. 22 MRSA §1445, sub-§5**, as enacted by PL 2005, c. 553, §2, is amended
4 to read:

5 **5. Repeal.** This section is repealed March 31, ~~2007~~ 2008.

6 **Sec. 7. Board of Pesticides Control; monitoring project; report.** The
7 Department of Agriculture, Food and Rural Resources, Board of Pesticides Control shall
8 monitor applications of pesticides using hand-held spray guns and air-assisted sprayers
9 allowed under the Maine Revised Statutes, Title 22, section 1445, subsection 2 to control
10 browntail moths in coastal areas. Monitoring must occur on selected sites where
11 applications are allowed. The board, working cooperatively with the Department of
12 Marine Resources, shall sample marine waters and sediments in coastal areas where
13 pesticides are applied to control browntail moths.

14 The Board of Pesticides Control, in consultation with the Department of Marine
15 Resources, shall analyze or have analyzed samples of marine water and sediment to
16 detect the presence and amounts of diflubenzuron, permethrin, tau-fluvalinate or
17 cyfluthrin in the samples. The board and the department shall present the results of the
18 monitoring and sampling efforts to an environmental risk advisory committee and the
19 Lobster Conservancy. The board shall report its findings and recommendations to the
20 Joint Standing Committee on Agriculture, Conservation and Forestry by January 2, 2008.

21 **Emergency clause.** In view of the emergency cited in the preamble, this
22 legislation takes effect when approved.

23 SUMMARY

24 This bill:

25 1. Allows application of pesticides by air-assisted sprayers to control browntail
26 moths in the area between 50 and 250 feet of the mean high water mark;

27 2. Allows pesticides applications only when the wind is equal to or greater than 2
28 miles per hour and blowing away from marine waters;

29 3. Adds licensed commercial applicators using nonpowered equipment to other
30 applications exempted from the restrictions and prohibitions in the Maine Revised
31 Statutes, Title 22, section 1445;

32 4. Adds Lincoln County to the area to which the restrictions apply;

33 5. Requires the Department of Agriculture, Food and Rural Resources, Board of
34 Pesticides Control to continue monitoring of allowed spray applications and directs the
35 board to work with the Department of Marine Resources on sampling and analysis of
36 marine water and sediment;

- 1 6. Requires the Board of Pesticides Control to report to the Joint Standing
- 2 Committee on Agriculture, Conservation and Forestry by January 2, 2008; and
- 3 7. Extends the repeal date one year to March 31, 2008.